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04/21/2004

Edward Triou JR.

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EXAMINER

CONTINO, PAUL F

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/828,947
Filing Date: April 21, 2004
Appellant(s): TRIOU ET AL.

Nathaniel Gilder, Reg. No. 53,233
For Appellant

EXAMINER'S ANSWER

Art Unit: 2114

This is in response to the appeal brief filed June 23, 2008, appealing from the Office action mailed April 19, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because the rejections have been withdrawn by the examiner. Claims 1-7, 22-24, and 27 are allowed.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0124213	AHRENS JR., et al.	9-2002
7,058,860	MILLER et al.	6-2006

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens JR (2002/0124213) in view of Miller (7,058,860).

As per claim 8, Ahrens teaches:

A method for classifying test results, comprising:
extracting data from a test result file, wherein said test result file identifies a failed attempt by a software application to conduct an electronic operation on a computer equipped with an operating system; (Ahrens JR page 3, paragraph 0051)

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linking an operating system identification from said test result file to said failure characteristics. (Ahrens JR page 3, paragraph 49 and 51; the error is associated with an OS and then forwarded to be stored in the event log.)

Ahrens fails to explicitly disclose comparing said data to failure characteristics stored in a database and matches said failure characteristics.

In column 3, line 19-22, Miller clearly teaches a method for comparing error log data to saved error information in a database. It would have been obvious to a person of ordinary skill in the art to include the database comparison error diagnostic method as taught by Miller in order to create an efficient error correction system. This would have been obvious to a person of ordinary skill in the art because Miller clearly teaches that the above method is better suited for solving malfunctions in computer products. (Miller column 1, lines 44-55)

As per claim 9:

A method according to claim 8, further comprising marking properties of test' result files to be ignored during said comparing. (Miller column 3, lines 22-24)

As per claim 10:

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A method according to claim 8, wherein at least one of said failure characteristics is an abstract characteristic that can be matched by a variety to data from a test result file. (Miller column 3, lines 26-30; this would include abstract and non-abstract information.)

As per claim 11:

A method according to claim 8, further comprising adding new failure characteristics to said database if said data from a test result file does not match said failure characteristics, wherein said new failure characteristics correspond to said data from a test result file. (Miller column 3, lines 30-34)

As per claim 14:

A method according to claim 8 further comprising marking failure characteristics to indicate that a failure they represent is expected. (Ahrens JR page 3, lines 38)

(10) Response to Argument

With respect to the Applicant's arguments regarding claims 1-7, 22-24, and 27, the Examiner agrees. Therefore the rejections of these claims have been withdrawn.

The Examiner respectfully disagrees with the Applicant's arguments regarding claim 8. The Applicant argues that the combined invention of Ahrens itself fails to teach of linking of an

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operating system identification with failure characteristics if test file data matches the failure characteristics without consideration of the secondary Miller reference. The test result file data as taught by Ahrens parallels the fault information taught by Miller. Miller includes a database with failure characteristics. If the failure characteristics as taught by Miller match the fault information, then the entirety of the fault information is linked to the database. Miller teaches of the overall linking and matching, while Ahrens teaches of the specifics of the fault information itself, which includes operating system identification. The term “linking” as claimed by the Applicant is a very broad term; as such, the Examiner reads “linking” as being any type of *association* present between the operating system identification and the failure characteristics.

The Applicant appears to be considering only the Ahrens reference when arguing the Examiner’s position on the claimed subject matter, rather than on the actual applied combination of Ahrens and Miller.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Paul F. Contino /PFC/

28 August 2008

/Scott T Baderman/

Supervisory Patent Examiner, Art Unit 2114

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